

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ANTHONY MCGEE,  
Plaintiff,

v.

MILPITAS POLICE DEPARTMENT, et al.,  
Defendants.

Case No. 23-cv-02559-VKD

**ORDER RE PLAINTIFF'S MOTION  
FOR DEFAULT JUDGMENT  
PURSUANT TO FED. R. CIV. P. 55(B)**

Re: Dkt. No. 61

On September 17, 2025, plaintiff Anthony McGee, who is representing himself, filed a “Motion for Default Judgment Pursuant to Fed. R. Civ. P. 55(b).” Dkt. No. 61. Mr. McGee asks the Court to enter default judgment against defendants “for failure to submit a legally sufficient response to the Complaint.” *Id.* The Court denies Mr. McGee’s motion for default judgment.

Default may be entered against a party who fails to plead or otherwise defend an action. Fed. R. Civ. P. 55(a). After entry of default, a court may, in its discretion, enter default judgment. Fed. R. Civ. P. 55(b)(2); *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980).

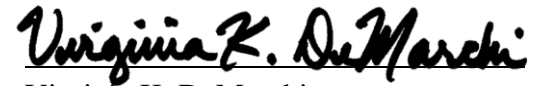
On October 23, 2023, the Court granted defendants’ Rule 12(b)(6) motion to dismiss plaintiff’s amended complaint without leave to amend. Dkt. No. 43. On October 24, 2023, the Court entered judgment in favor of defendants and against plaintiff. Dkt. No. 44. On November 16, 2023, Mr. McGee filed a notice of appeal of “all orders and final judgments in the case” to the U.S. Court of Appeals for the Ninth Circuit. Dkt. No. 50. On March 20, 2025, the Ninth Circuit affirmed this Court’s order and judgment, and on April 11, 2025, issued a mandate accordingly. Dkt. Nos. 54, 55.

As this action has already been adjudicated in defendants’ favor, and the judgment

1 affirmed on appeal, there is no justification for entry of default judgment against defendants.  
2 Accordingly, the Court denies Mr. McGee's motion for default judgment. The case remains  
3 closed.

4 **IT IS SO ORDERED.**

5 Dated: September 19, 2025

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8 Virginia K. DeMarchi  
9 United States Magistrate Judge  
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